

In the United States District Court  
For the Southern District of Georgia  
Savannah Division

Tommy Lee Williams, Henrietta	)	
Williams, Laquana Beniman,	)	Civil Action
Brian Jamar Williams, Dewayne	)	File Number CV409-107
Jermaine Williams, and	)	
Latreka M. Edwards,	)	
Plaintiffs,	)	
v.	)	
Bryan County, a Political	)	
Subdivision of the State of	)	
Georgia; City of Pembroke, a	)	
Political Subdivision of the	)	
State of Georgia; Clyde	)	
Smith, Individually and as	)	
Sheriff of Bryan County; Mark	)	
Crowe, Individually, as a	)	
Deputy Sheriff of Bryan	)	
County and as the Chief of	)	
Police of Pembroke Police	)	
Department; Cleve White,	)	
Individually, as a Deputy	)	
Sheriff of Bryan County and	)	
as a Police Officer of the	)	
Pembroke Police Department;	)	
and Susan Carrington	)	
Individually, and as a Deputy	)	
Sheriff of Bryan County,	)	
Defendants.	)	

**Plaintiffs' Response to Defendants' Motion for**  
**Judgment on the Pleadings**

Come Now, Tommy Lee Williams ("Plaintiff"), Henrietta Williams, Laquana Beniman, Brian Jamar Williams, Jermaine Williams,

and Latreka M. Edwards<sup>1</sup> and responds to the joint motion of all the Defendants<sup>2</sup> for Judgment on the Pleadings and shows the court as follows:

**STATEMENT OF FACTS**

On September 10, 2009, the Court entered a Scheduling Order ("Scheduling Order"). On page two of the Scheduling Order, the court required, among other things, that the last day for filing motions to amend or add parties was 09/11/2009. The Scheduling Order also required that the last day for filing civil motions, other than motions in limine, was 12/30/2009.

On October 2, 2009, Plaintiffs filed their First Amended Complaint. On November 10, 2009, Plaintiffs filed a Motion to Allow the Amendment along with a brief. On November 23, 2009, the Defendants filed a motion asking the court to extend the discovery to January 29, 2010, and the motions to February 28, 2007.<sup>3</sup>

On December 22, 2009, the court entered an order on the two

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<sup>1</sup> Henrietta Williams, Laquana Beniman, Brian Jamar Williams, Jermaine Williams, and Latreka M. Edwards are sometimes collectively referenced herein as "Plaintiffs."

<sup>2</sup> Bryan County, a Political Subdivision of the State of Georgia; City of Pembroke, a Political Subdivision of the State of Georgia; Clyde Smith, Individually and as Sheriff of Bryan County; Mark Crowe, Individually, as a Deputy Sheriff of Bryan County and as the Chief of Police of Pembroke Police Department; Cleve White, Individually, as a Deputy Sheriff of Bryan County and as a Police Officer of the Pembroke Police Department; and Susan Carrington Individually, and as a Deputy Sheriff of Bryan County.

<sup>3</sup> Motions Order, ¶ 6.

pending motions ("Motions Order"). The Plaintiffs' request for the amendment was denied and the Defendants' motion for discovery was granted in the Motions Order. On January 13, 2010, the Defendants filed a Motion for Judgment on the Pleadings.

**ARGUMENT AND CITATION OF AUTHORITY**

**Late Filing of Motion for  
Judgment on the Pleadings**

The Motion for Judgment on the Pleadings was actually filed 14 days after the deadline set by the Scheduling Order which was December 30, 2009. While the Defendants may argue that the Motions Order extended the time for them to file this motion, that extension is not specifically addressed in the Motions Order.

The court granted the Defendants' motion on page 8, paragraph 3 of the Motions Order. The only matter addressed in that paragraph was the discovery request that was requested. The court granted the Defendants' motion for discovery again on page 8, paragraph 3 of the Motions Order. The last paragraph of the Motions Order is as follows: "To summarize, the Court DENIED the plaintiffs' motion to amend (doc. 27) and GRANTS the defendants motion to extend discovery. Doc. 30."

The issue of the extension to the time to file motions was not addressed in the Motions Order. The Defendants may argue that by granting their motion, the deadline that they set in their motion should be controlling. If that is true, the deadline has

long since past since it was in 2007.

### **Plaintiff's Claims**

When this Court declined to allow Plaintiffs to amend their Complaint, it effectively cut off any chance they had to advance their cause in this particular litigation. As a result, Plaintiffs have contemporaneously herewith requested dismissal under Fed. R. Civ. P. 41(a)(2). Plaintiffs otherwise have no substantive response to the pending motion, other than a good faith argument to change the law back to where it was pre-1996, and allow constitutionally offensive malicious prosecutions to be brought under the 14<sup>th</sup> Amendment.

### **CONCLUSION**

Plaintiffs thus request the Court reconsider its earlier Order denying them an opportunity to amend their Complaint.

Respectfully submitted this 9<sup>th</sup> day of February, 2010.

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**CERTIFICATE OF SERVICE**

This is to certify that I have this day duly served all parties in this case with ***Plaintiffs' Response to Defendants' Motion for Judgment on the Pleadings*** in accordance with the directives from the Court Notice of Electronic Filing ("NEF"), which was generated as a result of electronic filing.

Respectfully submitted this 9<sup>th</sup> day of February, 2010.

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